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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/069,539	02/25/2002	Sel-Brian Colak	NL000378	1465
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,539

Applicant(s)

COLAK ET AL.

Examiner

Scott Beliveau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10-08-02 02-25-02</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include reference sign “4” mentioned in the description. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because the element “18” is referred to both as “fiber optical links” and “coaxial links” (Page 3, Lines 18-21). The examiner would suggest utilizing a different part number for the links between the fiber node and the coaxial amplifiers. Appropriate correction is required.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: “CATV system with hierarchical structure and interconnected redirection nodes”.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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5. Claims 1-6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5-8 of copending Application No. 10/069,537. Although the conflicting claims are not identical, they are not patentably distinct from each other because the differences between the two claims are considered to be obvious-type differences. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

With respect to claim 1, the claim corresponds to co-pending claim 5 which recites all of the corresponding claimed limitations with the exception that the co-pending claim further limits the direction of the data signals as being “downstream”.

Claims 2-4 and 6 correspond to co-pending claims 5-7 respectively.

Claim 5 corresponds to co-pending claim 5 wherein the difference lies in the co-pending claim not specifying that the “CATV network comprises a HFC” network”. The particular existence of “CATV networks [that] comprise a HFC network” is commonly known in the art. Accordingly, the particular usage of a “HFC network” so as to support more information over longer distances than traditional CATV networks is considered an obvious variant.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al. (US Pat No. 4,894,825).

With respect to claim 1, Figure 1 of Kobayashi et al. illustrates a “CATV system”. The system comprises “at least one primary station” or head-end [1] and a “plurality of secondary stations” or subscriber terminals [4] being “interconnected via a CATV network” [3]. The “CATV network” comprises a “plurality of nodes” [5] wherein “at least part of the nodes are redirection nodes comprising redirection means” (Figure 3) for “redirecting data signals” (Col 3, Line 10 – Col 4, Line 12). As further illustrated in Figures 1 and 8A-E, the “CATV network” [3] has a “hierarchical tree-like structure with several hierarchical levels and several branches . . . comprising horizontal interconnections between redirection nodes which are part of a same hierarchical level and/or diagonal interconnections between redirection nodes which are part of different hierarchical levels and of different branches”.

Claim 6 is rejected in light of the rejection of claim 1 wherein Figure 1 of Kobayashi et al. illustrates a “CATV system”. The “CATV network” comprises a “plurality of nodes” [5] wherein “at least part of the nodes are redirection nodes comprising redirection means” (Figure 3) for “redirecting data signals” (Col 3, Line 10 – Col 4, Line 12). As further illustrated in Figures 1 and 8A-E, the “CATV network” [3] has a “hierarchical tree-like structure with several hierarchical levels and . . . comprising horizontal interconnections between redirection nodes which are part of a same hierarchical level and/or diagonal interconnections between redirection nodes which are part of different hierarchical levels and of different branches”.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
10. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (US Pat No. 4,894,825) in view of Grodner et al. (US Pat No. 3,751,670).

In consideration of claims 2-4, as aforementioned, the Kobayashi et al. reference is silent with respect to the particular physical composition of the transmission network such that it necessarily comprises “wireless interconnections” being either “RF” or “IR”. In an analogous art pertaining to CATV systems, the Grodner et al. reference discloses a CATV system (Figure 1) wherein the CATV network comprises “wireless interconnections” in the form of either “IR” or “RF” links between distribution stations and the subscribers (Col 3, Lines 16-19; Col 5, Line 58 – Col 6, Line 48). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the

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distribution network of Koyabyashi et al. so as to further comprise “wireless interconnections” in the form of either “IR” or “RF” links between distribution couplers [6] and the subscribers [4] as taught by Grodner et al. for the purpose of providing premium CATV services in a secure manner without complicated scrambling techniques (Grodner et al.: Col 2, Lines 21-40; Col 3, Lines 16-41).

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (US Pat No. 4,894,825) in view of West, Jr. (US Pat No. 5,854,703)

In consideration of claim 5, the Kobayashi et al. reference is silent with respect to the particular physical composition of the transmission network such that it necessarily is a “HFC network”. In an analogous art pertaining to the CATV systems, Figure 2 of West, Jr. provides evidence as to the existence of a “HFC network” (Col 2, Lines 11-22).

Accordingly, it would have been obvious to one having ordinary skill in the art so as to modify the transmission network of Kobayashi et al. so as to comprise a “HFC network” for the purpose of advantageously utilizing fiber as a distribution means in order to support two-way multimedia traffic and to further carry more information over longer distances than that associated with only coaxial cabling (West, Jr.: Col 1, Line 50 – Col 2, Line 33).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

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- The Sit et al. (US Pat No. 5,963,843) reference discloses a system and method for redirecting downstream signals at the headend.
- The Ahmadi et al. (Us Pat No. 5,233,604) reference discloses a system and method for rerouting downstream between interconnected nodes based upon traffic conditions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Beliveau
Examiner
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June 5, 2006